

**COURSE DATA****Data Subject**

<b>Code</b>	36811
<b>Name</b>	Theory of law
<b>Cycle</b>	Grade
<b>ECTS Credits</b>	6.0
<b>Academic year</b>	2023 - 2024

**Study (s)**

<b>Degree</b>	<b>Center</b>	<b>Acad. Period year</b>
1933 - Double Degree in Law and Economics_2022	Faculty of Law	1 First term

**Subject-matter**

<b>Degree</b>	<b>Subject-matter</b>	<b>Character</b>
1933 - Double Degree in Law and Economics_2022	1 - Asignaturas de primer curso	Obligatory

**Coordination**

<b>Name</b>	<b>Department</b>
BEA PEREZ, EMILIA	364 - Political Legal Philosophy
TALAVERA FERNANDEZ, PEDRO AGUSTIN	364 - Political Legal Philosophy

**SUMMARY**

1. Legal Theory has an introductory purpose regarding legal reality, from the perspective of the Philosophy of Law. Thus, it wants to provide the student with a first approach to the architecture of Law, through a critical reflection that makes possible understanding Law in the framework of social reality, beyond specific perspectives to the other legal disciplines. It draws contributions from a wide range of related disciplines in the humanities and social sciences, including philosophy, political science, economics, history and sociology.

2. Legal Theory offers a broad range of topics, including analytical jurisprudence, normative jurisprudence, analyses of legal doctrines, theories of law as a social or cultural phenomenon, and critical perspectives on law and legal institutions. It is particularly related to Civil Law and Constitutional Law. Legal Theory aims for students to acquire the maturity to carry out a critical approach to Law.



3. The content of Legal Theory focuses on following topics: Concept of Law. Main conceptions of Law. Relationship between Law and other normative orders. Connection of Law with society and the State. The rule of Law. Spanish constitutional and legal system. The problem of interpretation and application of Law. Connection between Law and Justice. The sense of Law in human existence.

## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

### Other requirements

## COMPETENCES (RD 1393/2007) // LEARNING OUTCOMES (RD 822/2021)

## LEARNING OUTCOMES (RD 1393/2007) // NO CONTENT (RD 822/2021)

Adequate use of Legal Theory of Law course will allow the student to obtain the following results:

- Understanding the unitary character of the legal system and acquiring an interdisciplinary outlook of legal problems.
- Ability to understanding an analyzing legal text and jurisprudence doctrines.
- Ability to use constitutional principles and values, respect for human rights, sustainability and the culture of peace, as working tools in the interpretation of the legal system.
- Manage of legal sources
- Correct communication, orally and in writing, in the legal field.
- Ability to analyzing legal problems and offering a proposal of resolution with the basic instruments of legal argumentation.
- Acquisition of a critical conscience in the analysis of the legal system and of developing the legal dialectic.

## DESCRIPTION OF CONTENTS

### 1. INTRODUCTION

#### LESSON 1. INTRODUCTION

1. Place of the Legal Theory in the Law Degree.
2. The concept of Law: diversity of perspectives.
3. Basic legal categories: validity, efficacy and justice.
4. Law as a social and political phenomenon.



## LESSON 2. CONCEPTIONS OF LAW

1. Natural Law.
2. Legal Positivism.
3. Constitutionalism and other perspectives.

## LESSON 3. LAW AND OTHER NORMATIVE ORDERS

1. Law, Morality and Conventions as normative orders.
2. Law and Morality.
  - Various aspects of the moral phenomenon.
  - Differential features between Law and Morality.
  - Connections between Law and Morality.
3. Law and Conventions.

## LESSON 4. LAW AND SOCIETY

1. The place of Law in social spheres: politics, economy, culture.
2. The functions of Law.
3. Legitimation of power: State and Law. Crisis of the rule of law?
4. Law and economy. Law and culture.

## THE ELEMENTS OF LAW

### 2. THE ELEMENTS OF LAW

#### LESSON 5. THE RULES

1. The language of the rules
2. The content of rules.
3. Law as the union of primary and secondary rules.
4. Rules and principles.

#### LESSON 6. FROM RULES TO LAW

1. Law as a Legal System.
2. The unity of the Legal System. Main theoretical proposals.
3. The fullness of the Legal System. The gaps in the Law and its integration procedures.
4. The coherence of the legal system. Legal antinomies and their resolution criteria.
5. The sources of Law.

### 3. INTERPRETATION AND APPLICATION OF THE LAW

#### LESSON 7. THE PROCESS OF INTERPRETATION AND APPLICATION OF THE LAW

1. Models of Judicial Discretion.
2. Interpretation of rules. Concept, models and conditions.
3. Hermeneutical criteria. Reference to the Spanish Law



#### 4. JUSTICE AND THE LAW

##### LESSON 8. LAW AND JUSTICE

1. Principles of Justice.
2. Theories of Justice. Main conceptions.
3. Law and Rights, duties and responsibilities.
4. Introduction to the Human rights.

#### 5. THE ECONOMIC ANALYSIS OF LAW

1. Origin and development of the Economic Analysis of Law.
2. Positive approach and normative approach
3. Main concepts: efficiency, externalities, transaction costs.
4. Applications to Civil law, Property law, Criminal law.
5. Criticisms and virtualities.

### WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	60,00	100
Attendance at events and external activities	2,00	0
Development of individual work	8,00	0
Study and independent work	26,00	0
Readings supplementary material	8,00	0
Preparing lectures	18,00	0
Preparation of practical classes and problem	8,00	0
<b>TOTAL</b>	<b>130,00</b>	

### TEACHING METHODOLOGY

#### 1. Evaluable activities:

Four specific activities will be carried out, corresponding to each of the four parts of the subject. Of these, the teacher will indicate three as evaluable.

#### 2. Specific activities:

The teacher will determine other activities in the classroom, which will contribute to improving the level of understanding of the program and participation in the lessons.



### 3. Complementary activities (may be evaluable):

Other activities may be considered evaluable, such as Judges, Prosecutors or Lawyers conferences, participation in Law workshop, etc. It will be carried out in the specific schedule of complementary activities indicated for each group.

## EVALUATION

- 70% of the final grade corresponds to the mark obtained in the global test (final exam).
- 30% of the final grade corresponds to the mark obtained in the continuous evaluation (marks in evaluable activities).
- Participation in theoretical lessons and other activities will count to modulate, according to the teacher's discretion, the final grade.

## REFERENCES

### Basic

- AÑÓN, M.J. et alii (2023), *Teoría del Derecho*, Valencia, Tirant Lo Blanch, (3<sup>a</sup> ed.).
- AÑÓN, M.J. et alii (2023), *Teoría del Dret*, València, Tirant Lo Blanch, (2<sup>a</sup> ed.).
- ATIENZA, M. (2012), *El sentido del Derecho*, Barcelona, Ariel.
- PÉREZ LUÑO, A.E. (2019), *Teoría del Derecho. Una concepción de la experiencia jurídica*, Madrid, Tecnos, (18<sup>a</sup> ed.).
- PRIETO SANCHÍS, L. (2005), *Apuntes de Teoría del Derecho*, Madrid, Trotta.
- QUEROL ARAGÓN, N. (2014), *Análisis económico del Derecho*. Madrid, Dykinson.
- COOTER R. - ULEN, T. (2013), *Law and Economics*. Pearson.



**Additional**

- ATIENZA, M.- RUIZ MANERO, J. (2007), *Las piezas del Derecho*, Barcelona, Ariel, (4ª ed.)

BALLESTEROS, J. (2001), *Sobre el sentido del Derecho*, Madrid, Tecnos (3ª ed.)

BOBBIO, N. (1991), *Teoría general del Derecho*, Madrid, Debate.

DE LUCAS, J. (2020), *Decir no. El Imperativo de la Desobediencia*, Valencia, Tirant lo Blanch.

KELSEN, H. (1991), *Teoría pura del Derecho*, México D. F., Porrúa-UNAM.